IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 12727 of 2005

Between:

1 S. Govinda Raju, S/o. S. Rajamraju
R/o. H.No.21-8-41, Rajamraju Street, Muthyalampadu,
Vijayawada Krishna Dist.
2 Chaganti Basivireddy S/o. Sivareddy
R/o. Nunna Village,
Vijayawada Krishna Dist.
3 S. Ajayakumar Reddy S/o. Tirupathireddy
R/o.30-25-12, Cement Road Chuttagunta
Vijayawada Krishna Dist.
4 K.Harish Kumar S/o. Lalchand Jararamdas
R/o.27-16-59, Governorpet Gannavaram (M),
Vijayawada Krishna Dist.
5 Dantuluri Satyavathi W/o. D. Krishnam Raju
R/o. K. L. Rao Colony Bundameru
Vijayawada Town Krishna Dist.
6 D. Satyanarayana S/o. D. Venkatachalamaiah
R/o. 26-25-24, Durgaveedhi Gandhinagar
Vijayawada Town Krishna Dist.
7 Pillirula Rupeshkumar S/o. P. Chennaih
R/o. 26-25-24, Durgaveedhi Gandhinagar
Vijayawada Town Krishna Dist.
8 Macherla Kirankumar S/o. M. Venkateswarlu
R/o. 26-25-24, Durgaveedhi Gandhinagar
Vijayawada Town Krishna Dist.
9 Uppalapati Kishore Varma S/o. U. Venkatasubbaraju
R/o. Ananthapuram (V) Tanguturu (M)
Prakasam Dist.
10 Kolla Naga Ramakrishna S/o. K. Subbarao
R/o. Veternary Colony, Vijayawada
11 Atmakuri Sreenivasarao S/o. A. Seetharamaiah
R/o. 21-10-3-86-A, Srinagar Colony
Satyanarayanapuram Vijayawada.
12 Pydimarri Brahmarao S/o. Adivisetti
R/o.29-28-43, Dasarivariveedhi

Suryaraopet, Vijayawada.

13 Chakka Sriramamurthy S/o. C. Peddaiah
R/o.29-28-37, Dasarivariveedhi
Suryaraopet, Vijayawada.

14 Kandasni Laxmi W/o. Raghavendrrao
R/o. Narsingapalem Post Agripalli (M)
Krishna Dist.

15 Iynampudi Venkataraju S/o. Satyanarayanaraju
R/o. Venkateswaraswamy Temple Road Ramakrishnapuram
Vijayawada.

16 Chekuri Subbalaxmi W/o. C. Venkataramaraju
R/o. 21-7-13-B, Ramarajuveedhi Muthayalampadu
Vijayawada.

17 Madala Jhansi Laxmi W/o. Subbarao
R/o. Mandalavarigudem Gannavaram (M)
Vijayawada.

18 Yeddanapudi Gangadhararao S/o. Satyanarayana Murthy
R/o. Laxmanarao Veedhi Proonandhampet
Vijayawada.

19 K. Harishkumar S/o. Lalchand Jayaramdas
R/o. Governorpet
Vijayawada.

20 Kondasani Venkateswararao S/o. Paramdhamayya
R/o. Narsingapalem (V) Agripalli (M)
Nuzuvid Krishna dist.

21 Bandi Srinivas S/o. B. Shankararao
R/o. Vijayawada Town, L.A.C. Colony Jayaprakashnagar
Krishna dist.

22 Bandi Srinivas S/o. B. Shankararao
R/o. Vijayawada Town, L.I.C. Colony Jayaprakashnagar
Krishna dist.

23 Katakam Venkateswararao S/o. K. Rangaiah
R/o. 29-13-111, Governorpet Kaleshwararao Road
Vijayawada Krishna dist.

24 Leelaram Ganshani S/o. Late Basant Rai
R/o. 59-5-10, Mohan Towers 5th Floor,
Flat.No.A-5, Ashoknagar, Vijayawada

25 Samanthapudi Srinivasaraju S/o. S. Pullamraju
R/o. Gottumukkalavariveedhi Ramakrishnapuram
Vijayawada Town

26 Dayaldas Chandanani S/o. Late Chhabal Das
R/o. 59-8-4/1, Pawan Towers 5th Floor, Flat.No.5/A, Gayatrinagar
Vijayawada Town

27 Miryala Jaganmohanrao S/o. M. Jamaleshwararao
R/o. Vegetable Market Vinayaka Temple
Mylavaram Krishna Dist.

28 Chepuri Satyanarayana S/o. Guruswamy
R/o. 32-13-53/100, Sunnapudubatti Cement Vijayawada

29 Kolipakula Padmavathi W/o. K. Venkatalakshminarasimha Harinath
R/o. 30-10-29, 1st Floor, Laxmi Nilayam
Mysore Cafe near Seetharampuram, Vijayawada.

30 Appala Matha Laxmikumari W/o. A.P. Anjaneyulu
R/o. 9-3-170, Brahmana Street Vijayawada.

31 Majeti Sridhar Chandrasekhar S/o. M. Madhavarao
R/o.Plot.No.2, Chandrammouli, Lotour Towers, Museum Road
Governotpet, Vijayawada
32 Savitri Manghanani W/o. Lachman Manghanani
R/o.1-7-138, Sai Kiran Apartment, Kamalangar
Hyderabad.
33 Kanchan D. Mahatani W/o. Dilip G. Mahatani
R/o. Flat.No.10, 2nd Floor, Vijayakrishna Apt.
Suryaraopet Vijayawada.
34 Padmanbhuni Pavan Kumar S/o. Harinarayana
R/o. S.P.K.P. Temple Street, Prakasam Dist.
35 Kollapudi Mallikarjuna Rao S/o. K. Venkatakrishna Rao
R/o. Annapurna Apartment, Brundhavan colony
Vijayawada Town.
36 Devnani Amit Kumar S/o. Devnani Rameshkumar
R/o. Flat.No.2, 2nd Floor, Sakala Apartment, Ramachandranagar
Vijayawada .
37 Katkam Venkatateswararao S/o. K. Rangaiah
R/o. 29-13-111, Kaleswararao Road, Gannavaram
Krishna Dist.
38 Katkam Venkata Subbarao S/o. K. Rangaiah
R/o. 29-13-111, Kaleswararao Road, Gannavaram
Krishna Dist.
39 Sivaramaraju S/o. Vasvyai Subbarao
R/o. Alluri Seetharamaraju Road, Devinagar
Krishna Dist.
40 V. Phanidar Satyanarayana Raju S/o. Subbaraju
R/o. Alluri Seetharamaraju Road, Devinagar
Krishna Dist.
41 Dendukuri Bhaskararaju S/o. D. Subbaraju
R/o. Vanapalavari Veedhi, Vijayawada town
Krishna Dist.
42 Jami Satyanarayana S/o. Satyam
R/o.21-3-33, Bhagatsingh Road Muthayalampadu
Vijayawada.
43 S. Ajaykumar Reddy S/o. Tirupathireddy
R/o.30-25-12, Cement Road Chuttagunta
Vijayawada.

..... PETITIONERS

AND

1. The District Collector, Krishna at Machilipatnam.
2. The Mandal Revenue Officer, Gannavaram Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction in the nature of *Writ of Certiorari* calling for the records relating to the impugned notice in Form-I under Rule 3 of the A.P. Assigned lands

(Prohibition Transfer) Act, 1977 dated 27.5.2005 issued by the 2nd respondent as illegal, arbitrary and quash the same.

Counsel for the Petitioner: MR.D.GOPAL RAO

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

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ORDER:

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For declaring the action of the second respondent in issuing the show cause notice in Form-I, dated 27.05.2005 under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977, as arbitrary and illegal, the present writ petition has been filed.

2. It is the case of the petitioners that the second respondent herein granted patta to one Posuri Ramakrishna, S/o Ramarao, resident of Surempalli village, Gannavaram Mandal measuring about Ac.1.96 cents in Survey No.188/2 on payment of market rate of Rs.500/- per acre on condition of paying the said amount with 15 instalments with 6% interest, but whereas the said Posuri Ramakrishna paid entire amount for Ac.1.96 cents with interest totaling Rs.1050/- on 18.12.1997 and obtained a receipt from the Treasury at Gannavaram, thereby he became the absolute owner of the property measuring Ac.1.96 cents. One M. Nageswararao, S/o Kotaiah, Surempalli was also granted patta for Ac.1.96 cents in Survey No.188/2 on payment of market value of Rs.500/- per acres, with 15 instalments with 6% interest, the costs of above land was paid by him with interest totaling Rs.1050/- on 18.12.1997 in the Treasury of Gannavaram and obtained a receipt and thereby, he became an absolute owner of the said property. One Mohamatapu Rattaiah, S/o Veeraiah, resident of Surempalli village was also granted patta Ac.1.96 cents in Survey No.188/2 of Surempalli village, Gannavaram Mandal on payment of market

value at Rs.500/- per acres and the same was paid by him totaling Rs.1050/- with interest on 18.12.1997 in the Treasury at Gannavaram and obtained the receipt, thereby he came the absolute owner of the said property. Since then, they have been paying the land revenue to the Government and cultivating the same as per the terms and conditions in D-Form patta. The second respondent has also issued pattadar pass books in their favour in respect of their properties. It is further stated that the above lands are not assigned land and as the assignment was made on payment of market value with absolute right to sell, as such Section 2(1) of A.P. Assigned Land Act is not attracted. It is further stated that the said three persons were granted patta by the Mandal Revenue Officer in the year 1988 gifted the said land to one M. Gopalakrishna by registered Gift deed dated 4.2.1999 and 8.3.1999 and the said Gopalakrishna executed General Power of Attorney on 26.10.1999 in favour of one M. Ravikumar Appalacharyulu authorizing to sell the above lands, and accordingly, the G.P.A. holder sold the Ac.5.28 cents in Survey No.188/2 of Surempalli village in favour of the petitioners 1 and 2 by registered sale deed dated 1.2.2005.

Subsequent to that, the petitioners 1 and 2 submitted a layout in the village panchayat Surempalli dividing into house plots and the same was approved as per the 'No Objection Certificate' issued on 15.12.2004. It is further submitted that the petitioners 1 and 2 paid fees for conversion of agricultural land into residential and submitted a lay out to Grampanachayat with betterment charges and the Grampanchayat issued a certificate of No Objection on 15.12.2004 and they sold individual plots to the petitioners 3 to 43 by executing registered sale deed in their favour and they are in possession and enjoyment of the same and they are ready to built houses. It is further submitted that the second respondent issued a show cause notice dated 27.5.2005 to the petitioners in form-I under Rule 3 of A.P. Assignment (Prohibition and Transfer) Act, 1977 (for short 'the Act') stating that their lands are assigned lands and the sale transaction is in contravention of the provisions of sub-section (2) of Section 3 of the Act, 1977 and they were directed to submit their explanation within fifteen days. Aggrieved by the impugned notice, the present writ petition has been filed.

3. When the matter is taken up for admission, the learned Government Pleader for Revenue represented that the petitioners have received the impugned show cause notice on 01.06.2005 and instead of submitting their explanation within the time prescribed in the impugned notice, straight away they approached this Honourable Court and filed the present writ petition.

4. It is well settled principle of law that the writ petition cannot be entertained under a show cause notice unless it contemplates any penal consequences. Since the petitioners are found to have the assigned lands in contravention of the provision under sub-section (2) of Section 3 of the Act, before evicting the petitioners, the impugned show cause notice was issued. Therefore, the petitioners should have presented their case before the authority instead of filing the writ petition. In that view of the matter, I do not see any reason to entertain the present writ petition, since there is an alternative remedy is available for the petitioners to submit their explanation in response to the impugned notice.

6 . Accordingly, the writ petition is dismissed. However, the petitioners are granted two weeks time for submitting their explanation in response to the impugned notice for consideration of their case before the authorities concerned. No order as to costs.

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(ELIPE DHARMA RAO, J)

Date: 16.06.2005

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, Krishna at Machilipatnam.
2. The Mandal Revenue Officer, Gannavaram Krishna District.

3. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT)

4. 2 CD copies

5. 1 CC to MR.GOPAL RAO

*Form-NIC-OGS/WP{**CHP**}*